



Texas Department of Criminal Justice
STEP 2 OFFENDER
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Mark W. Stiles Housing Assignment: 4F 2 - 40B
 Unit where incident occurred: Stiles

OFFICE USE ONLY	
Grievance #:	<u>2020070693</u>
UGI Recd Date:	<u>4-29-2020</u>
HQ Recd Date:	<u>MAY 1 - 2020</u>
Date Due:	<u>6-13</u>
Grievance Code:	<u>638</u>
Investigator ID#:	
Extension Date:	

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...
 Practice / Facility Manager, Edward DeLong failed wholly to address any of the issues presented on the Step-I Grievance, #2020070693, the issues presented where in simple phrases and sentences as well as in English, yet Mr. DeLong failed to answer, address, or acknowledge that any of "his" providers, in this case, Ms. E. Davis, and G. Daniels, acted in any way inappropriately, medicall
Mr. DeLong's response, indicated that it was TDCJ, Classification I guess, that was responsible for the removal of several of my heat related restrictions. When in fact it was Ms. Emma Davis, not taking into account my need for the renewal of my medications, (The meds were renewed 1/6/20 by Mr. Daniels), she decided that I didn't need my "Doctor Issued" heat restrictions, she failed to address my Labs, and in general just blew my medical issues away.
In a subsequent Grievance, 2020046310, Mr. DeLong references my 1/6/20 clinic visit as one to a blood pressure evaluation, yet on this instant grievance it was to send my PULHES to TDCJ, on my behalf.

I have written a number of Grievances against the Medical Department, Ms. Emma Davis, Mr. Gideon Daniels and Edward DeLong, and to date, not one grievance has been addressed properly, or for that matter properly investigated, which is, per UTMB-CMHC Policy A-12.1, Mr. DeLong's attempt at an informal resolution, which he has to date, never answered and/or address any I-60 sent to him.

Again, I wish to have my heat related restriction reinstated, I have a job assignment, and those restrictions are in place to protect me, my health, my safety, and those of the Unit.

This matter of Mr. DeLong's failure to address the issues, answer properly and timely submitted I-60's pursuant to UTMB-CMHC Policy A-12.1 to attempt informal resolutions, and then have the Office of Professional Standards reply that I didn't attempt to do a informal resolution, see Step-2 Grievance Response, #2020046310, States: "Further documentation indicates you did not attempt an informal resolution..." What Documentation??

Offender Signature: Roger Fair Date: April 28th 2020

Grievance Response:

A review of the Step 1 medical grievance has been completed regarding your report your medical restrictions were deleted which put your life in danger.

According to the documentation, the appellate review of the medical grievance supports the response provided at the Step 1 level. You were evaluated by the provider and your PUHLES were updated at that time. The provider has assigned the medical restrictions he determined were necessary. The provider did evaluate you and did take into consideration your medications and the evaluation before adjusting or removing any medical restrictions. If you disagree with the medical decisions this does not necessarily constitute inappropriate medical care. There is no documentation to show you are in any danger or denied proper medical care.

Review of the documentation indicates you did not attempt informal resolution of your medical concerns with supervisory staff. The unit facility has a complaint process in place. Should you feel your medical concerns require further evaluation you may submit a Sick Call Request to the medical department.

STEP II MEDICAL GRIEVANCE FORM
OFFICE OF PROFESSIONAL STANDARDS
TDCJ HEALTH SERVICES UNIT

Signature Authority:

Date: 5-6-2020

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY	
Initial Submission	CGO Initials: _____
Date UGI Recd:	_____
Date CGO Recd:	_____
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments:	_____
Date Returned to Offender:	_____
2 nd Submission	CGO Initials: _____
Date UGI Recd:	_____
Date CGO Recd:	_____
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments:	_____
Date Returned to Offender:	_____
3 rd Submission	CGO Initials: _____
Date UGI Recd:	_____
Date CGO Recd:	_____
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments:	_____
Date Returned to Offender:	_____

Exhibit 1



Texas Department of Criminal Justice

**STEP 1 OFFENDER
GRIEVANCE FORM**
Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4 D-3-60BUnit where incident occurred: 10 Building/Infirmary Stiles Unit

OFFICE USE ONLY	
Grievance #:	<u>2020070693</u>
Date Received:	<u>JAN 31 2020</u>
Date Due:	<u>03-16-20</u>
Grievance Code:	<u>638</u>
Investigator ID #:	<u>T2534</u>
Extension Date:	
Date Replied to Offender:	<u>APR 24 2020</u>

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title): No One, Edward DeLong I attempted to talk to When? January 18th/28th

What was their response? Boyce, A.A., said to submit a Sick Call Request, failed to address issue

What action was taken? None!!

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. This grievance concerns the Medical Department, Facility Manager Edward DeLong, Emma Davis, R-NP. Gideon Daniel, Provider, the issue is about denial of proper medical assessment, treatment and a disregard for the health and wellbeing of the Offender, me. My belief is that the medical Department has Retaliated against me for a earlier grievance that I filed against it, Grievance # 2020046310, (which hasn't been answered, yet, given 45 day additional time to reply); Deliberate Indifference to a serious medical need; & Medical Indifference.

I am assigned to the Stiles Unit due to several medical issues that I have restrictions assigned to me because of them. I arrived back from a 4½ month bench warrant to Tarrant County. When I was assigned to the McConnell Unit I was given a number of medicines, High Blood Pressure; Hyper-Tension; IBS. These meds were stopped, on March 19th 2019. I saw Ms. Emma Davis, R-NP in October to get my meds back, and my chronic medical care re-established, all Ms. Davis did for me was to take two Heat Restrictions from me, this I believe was for the benefit of the Classification Department so they could house me anywhere convenient instead of in special need housing. Ms. Davis ordered Labs done, yet I have not been seen since for a follow up.

January 6th 2020, I was seen by Provider Gideon Daniel, he reordered my medicine, ordered X-Rays of my neck, this I believe is due to the fact that I have a number of restrictions from 1996 due to injuries to my neck, and he is interested in seeing if he can take those restrictions. All of my restrictions were ordered by licenced Medical Doctors, not P.A.'S, Nurse Practitioners, my restrictions have been in place for a number of years, some decades old. To date, I haven't been called back by Provider Daniel for a follow-up concerning the X-Rays.

Per UTMB-CMHC Policy 12.1, I first contacted the Facility Practice Manager, Edward DeLong to attempt to resolve this matter, which is to have my restrictions reinstated, and left alone, I have had no response to my I-60's to Mr. DeLong, but did receive a reply from a Boyce, A.A. who

I don't have the faintest clue to who that is, and who authorized Boyce to reply to a proper submitted I-60 to Facility Practice Manager DeLong per UTMB-CMHC Policy 12.1. The reply was in fact not even close to resolving the issue stated in the I-60 to Mr. Delong, thus, my attempt to do what is required by an Offender to make a informal attempt at a resolution concerning this matter was ignored by Medical Department, Edward DeLong, and the parties to this matter.

I am submitting this grievance "NOT TO THE MEDICAL DEPARTMENT, BUT TO THE UNIT" I am an Offender in TDCJ-CID, this Agency is responsible for my welfare, and health, UTMB-CMHC is a sub-contractor and if they chose "NOT TO TREAT ME" then it is the responsibility of this Agency to make sure I am treated properly. I have in this Grievance brought forth an issue to the attention of this Administration and the rank of this Unit, it should not be ignored.

Action Requested to resolve your Complaint.

I wish to have my restrictions reinstated, and for the Medical Department to leave me alone instead of working for the benefit of the Classification Department and for convenience of the Unit

Offender Signature:

Logan Fain #700474

Date: Janaury 30th 2020

Grievance Response:

- Offender Fain, please be advised, you were seen on 1/6/2020 by Provider Daniels. On that day, Mr. Daniels sent PULHES restrictions to TDCJ on your behalf. You were provided care per policy. Continue to submit sick call request as medical issues arise. This grievance is unsubstantiated.

Rec'd on 01-27-20

Signature Authority:

Edward D

Date: *1/27/20*

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days.
- 3. Original not submitted.
- 4. Inappropriate/Ecessive attachments.
- 5. No documented attempt at informal resolution.
- 6. No requested relief is stated.
- 7. Malicious use of vulgar, indecent, or physically threatening language.
- 8. The issue presented is not grievable.
- 9. Redundant. Refer to grievance # _____.
- 10. Illegible/incomprehensible.
- 11. Inappropriate.

UGI Printed Name/Signature:

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority:

Exhibit 1

I-127 Back (Revised 11-2010)

OFFICE USE ONLY	
Screening Criteria Used:	UGI Initials:
Date Rec'd from Offender:	
Date Returned to Offender:	
2 nd Submission	UGI Initials:
Grievance #: _____	
Screening Criteria Used:	
Date Rec'd from Offender:	
Date Returned to Offender:	
3 rd Submission	UGI Initials:
Grievance #: _____	
Screening Criteria Used:	
Date Rec'd from Offender:	
Date Returned to Offender:	

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TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

RESTRICTED
AND
CONFIDENTIAL

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY				STEP 1 X			
Unit:	ST	Investigator ID:	12534	Date Initiated:	01/31/20	Date Completed:	4/23/20
Offender Name: Fain, Roger				TDCJ No:	700474	Grievance Number:	2020070693
Issue Code: 600	EMERGENCY <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	ADA <input type="checkbox"/> Disciplinary <input type="checkbox"/> Medical <input checked="" type="checkbox"/>	() () (X)	Property <input type="checkbox"/> Religion <input type="checkbox"/> OPI Investigation <input type="checkbox"/>	() () ()	Use of Force (UOF) <input type="checkbox"/> Harassment or Retaliation* <input type="checkbox"/> PREA <input type="checkbox"/>	() () ()
<small>*Harassment or Retaliation of Use of Force of the Grievant. Harassment includes, but is not limited to, threats, intimidation, or physical abuse.</small> <small>Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal activity and/or the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>							
Summary of Issue: (Include date, time and location): Claims that on 01/06/20 Dr Daniel refuses to reinstate his medical restrictions and a follow up concerning X rays.							
Requested Remedy: To have my restrictions reinstated and medical to leave me alone							

The following is to be completed and signed by the investigating official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Appendix L

Suggested Response to Offender:

- Offender Fain, please be advised, you were seen on 1/6/2020 by Provider Daniels. On that day, Mr. Daniels sent PULHES restrictions to TDCJ on your behalf. You were provided care per policy. Continue to submit sick call request as medical issues arise. This grievance is unsubstantiated

OUTCOME CODE: D **RESOLUTION CODE:** 2,01

Investigating official completes the section below:

 Printed Name: Edward Detone Signature: 
 Title: St. Practice Manager Date: 4/22/20

This grievance is being processed in an effort to resolve a problem through the established procedures outlined in RPWOS 17 and AD-0282. It is expressly prohibited to subject the grievant, other offenders, or staff to form of reprisal for the use of these procedures.

Offender Name: Fain, Roger TDCJ #: 700474 Unit: ST Grievance #: 2020070693

Documents and Forms Required for Investigation of Medical Grievances
The following forms and documentation are generally required for grievance investigations.

	Date	Name & Title	
	Comments	Y	N/A
1 Unit Grievance Investigator forwards the original grievance, or a copy for multiple issue medical grievances, the OG-01 worksheet, and <u>page 1 of this checklist to the Medical Department.</u>	01/31/20	S THOMAS UGI III	
2 Unit Practice Manager/Health Administrator, or Director of Nursing Nurse Administrator reviews issues, routes to responsible party and compiles the following paperwork:	1/31/20	Edward Delone, SPM	
2(a) Supporting documentation from the medical record			
• Provider/Nursing/Clinic Notes		<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Refusal forms		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Sick Call Requests/Sick Call logs		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Master Problem List		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• X-ray reports		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Specialty clinic notes		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Lab reports		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• PULHES/HSM-18		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Passes-medication/medical issue items (braces, crutches, shoes, etc.)		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Dental records		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Mental health records		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Treatment flow sheets		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Lay-in lists		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Security Logs		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Compliance reports		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Discharge summaries		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Release of Information-Hospital Galveston only		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Provide other written records required to offer proof of provision of services. All persons participating in clinical and non-clinical services to offenders are bound by the same rules of confidentiality and shall not be excluded from viewing such records necessary to complete the review/appel process.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2(b) Copies of all signed statements from medical/dental/mental health staff who are specifically named in the Step 1 Grievance.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2(c) Individual medical/dental/mental health discipline manager/designee findings & recommendations.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
2(d) Informal resolution attempted by the offender through the Facility Medical Complaints Coordinator before the Step 1 Grievance was filed.		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Sign and forward all compiled Health Services documentation and statements to the Grievance Investigator.		<input checked="" type="checkbox"/>	<input type="checkbox"/>
4 Received by the Unit Grievance Investigator signature.		<input checked="" type="checkbox"/>	<input type="checkbox"/>

* The Unit Grievance Staff is responsible for obtaining non-medical statements and forwarding all investigative documents to the Central Grievance Office in Huntsville, if a Step 2 Offender Grievance is filed.

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020070693	Fain, Rogers	700474	ST



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (*check the applicable box*)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (*check the applicable box*)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

Thomas S UGI III

Name and Title

Date

Original – Send to the Offender

Copy Attach to the Grievance

Grievance Investigation Worksheet
Restricted & Confidential

Grievance Office Use Only						Step 1
						Step 2 <input checked="" type="checkbox"/>
Unit: ST - STILES		Investigator ID: YS00001	Date Initiated: 5/4/20	Date Completed: 5/6/20		Due Date: 6/13/20
Offender Name: FAIN, ROGER		TDCJ No: 00700474			Grievance No: 2020070693	
Issue Code: 638	Emergency <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> X	ADA <input type="checkbox"/> Disciplinary <input type="checkbox"/> Medical <input checked="" type="checkbox"/>	Property <input type="checkbox"/> Religion <input type="checkbox"/> DPI Investigation <input type="checkbox"/>	PREA <input type="checkbox"/> Use of Force (UOF) <input type="checkbox"/> Harassment or Retaliation * <input type="checkbox"/>	()	
	* Harassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity					

NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (include date, time and location.) See Step 1 OG-01 Grievance Investigation Worksheet

The offender reported his medical restrictions were removed. He is requesting the restrictions be reinstated.

Requested Remedy: See Step 1 OG-01 Grievance Investigation Worksheet

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, if applicable.

Summary of Fact Finding Activity:

According to the documentation, the appellate review of the medical grievance supports the response provided at the Step 1 level. The offender was evaluated by the provider and his PUHLES were updated at that time. The provider has assigned the medical restrictions he determined were necessary. The provider did evaluate the offender and did take into consideration his medications and the evaluation before adjusting or removing any medical restrictions. If you disagree with the medical decisions this does not necessarily constitute inappropriate medical care. There is no documentation to show the offender is in any danger or has been denied proper medical care //Review of the documentation indicates the offender did not attempt informal resolution of his medical concerns with supervisory staff. The unit facility has a complaint process in place. Should the offender feel his medical concerns require further evaluation he may submit a Sick Call Request to the medical department.

Suggested Response to Offender:

A review of the Step 1 medical grievance has been completed regarding your report your medical restrictions were deleted which put your life in danger.

According to the documentation, the appellate review of the medical grievance supports the response provided at the Step 1 level. You were evaluated by the provider and your PUHLES were updated at that time. The provider has assigned the medical restrictions he determined were necessary. The provider did evaluate you and did take into consideration your medications and the evaluation before adjusting or removing any medical restrictions. If you disagree with the medical decisions this does not necessarily constitute inappropriate medical care. There is no documentation to show you are in any danger or denied proper medical care.

Review of the documentation indicates you did not attempt informal resolution of your medical concerns with supervisory staff. The unit facility has a complaint process in place. Should you feel your medical concerns require further evaluation you may submit a Sick Call Request to the medical department.

OUTCOME CODE: DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

RESOLUTION CODE: 2.01

Investigating Official completes the section below

Printed Name: ROBERT, SHANNON

Signature: 

Title: AAIV

Date: 5/8/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

LAVETHA SCOTT
INVESTIGATOR III
TDCJ HEALTH SERVICES

Grievance #: 2020070693

OG-01 Rev. 07/2016

Exhibit 1

084 Appendix H



Texas Department of Criminal Justice

**STEP 2 OFFENDER
GRIEVANCE FORM**
Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4D 3 - 60BUnit where incident occurred: Stiles Unit Infirmary**OFFICE USE ONLY**Grievance #: 2020040310UGI Recd Date: 3-6-2020HQ Recd Date: MAR 10 2020Date Due: 4-30Grievance Code: 1006

Investigator ID#: _____

Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). I am dissatisfied with the response at Step 1 because...

The Step-1 was not properly responded to where the issues were plainly stated. Edward DeLong failed to address the issues of 1) Staging; 2) Be subjected to actions that are not permitted in TDCJ-CID at any time; and 3) Misstating the Medical Records.

TDCJ-CID has a policy against staging, this is for security and safety reasons. The Medical Department takes it upon itself to "over-load" the holding area of the Infirmary for their convenience. Throughout each TDCJ-CID Unit, the Max Capacity is posted on the walls, this posting is to insure that the area is operated properly, safely, and secured. Over-loading an area creates a safety and security problem. Delong states that it's securities responsibility to supervise the waiting area, and this is a fact, "BUT" it was the scheduling of the Medical Department that over filled the capacity of the waiting area on 11/25/19, the day in question.

Furthermore, A & C Pods are protected Pods, these Offenders are not premitted to mingle with the general population of the Unit, they are not premitted to eat in the chow hall at the same time as GP is, in fact GP is run out of the chow to allow the protected Pods to eat, yet the Medical Department schedules GP with the Protected Pods, thus in violation of the reasoning behind the whole protective Pod process. The Medical Department for the safety and security of the Protecte individuals should only schedule GP & A & C Pod separately, AM / PM.

As for my 1/6/20 medical appointment, this wasn't for any blood pressure evaluation, this was to redo my meds that Emma Davis failed to do on 10/07/19. Gideon Daniel, PA, renewed 7 meds that I was taking prior to going on Bench Warrant, I had been back in the sysyem since 08/07/19, and my meds were not in their entirity renewed for 5 months. Delong stated that the medical department had my medical concerns in consideration, not so, all Davis did was take my heat restitutions

which is this Units directive due to lack of proper housing for those who have heat restitutions. On 1/06/20, the Provider 1) Renewed my Medications; 2) Refused to evaluate my October 2020 Labs; 3) Requested X-Rays, which were done on 1/13/20, but have not to date had any follow-up concerning the results and findings of those X-Rays. The medical department on this Unit is Sub-Standar their concern is doing as the Unit wishes, not in the best interest of the Offender.

Offender Signature: Roger Fair #00700474 Date: March 5th 2020

Grievance Response:

A review of the medical grievance and documentation has been completed regarding your medical complaint on 11/25/2019 the waiting area in medical was over booked at capacity and homosexual activities were not being supervised. To remedy this, you are requesting medical properly supervise waiting area activities so others do not have to watch.

An appellate review of the medical grievance and clinical record indicates the response from Step 1 is appropriate. Upon further review of your electronic health records, there is no documentation of harassment or retaliation against you. Furthermore, your allegations of homosexual activity and overbooking of appointments has been resolved at the unit level. As per Step 1 response, medical has been made aware of overbooking and to stagger offenders. Should you require further medical assistance, please utilize the sick call process.

Further documentation indicates you did not attempt an informal resolution of your medical concern with supervisory staff. Please refer to Correctional Managed Health Care (CMHC) policy A-12.1, attachment A, regarding getting medical treatment. No further action is warranted at this time through the grievance process.

STEP II MEDICAL GRIEVANCE PROGRAM
OFFICE OF PROFESSIONAL STANDARDS
TDCJ HEALTH SERVICES DIVISION

Signature Authority:

Date: 3-19-20

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted.*
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY	
Initial Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) _____ Screened _____ Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	
2 nd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) _____ Screened _____ Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	
3 rd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) _____ Screened _____ Improperly Submitted	
Comments: _____	
Date Returned to Offender: _____	

Exhibit 1

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Texas Department of Criminal Justice

**STEP 1 OFFENDER
GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Mark W. Stiles Housing Assignment: 4D 3-60B
 Unit where incident occurred: Unit (Stiles) Infirmary

OFFICE USE ONLY	
Grievance #: <u>TC80046310</u>	Date Received: <u>DEC 09 2019</u>
Date Due: <u>01-23-20</u>	Grievance Code: <u>404</u>
Investigator ID #: <u>I2534</u>	Filing Date: <u>03-08-20</u>
Date Read to Offender: <u>MAR 04 2020</u>	

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Practice Facility Manager (I-60) When? 11/26/19

What was their response? Ignored-failed to answer within a 10 day period

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate. On 11/25/19, I had a lay-in to the Medical Department to see provider Emma Davis, R NP, for what reason I'm not sure of. This was during a Unit lockdown, my lay-in was for 5:30am, and I didn't get escorted to the Infirmary until after 7:10am. When I arrived the Infirmary waiting area inside and outside of the caged area was packed. Once I submitted my lay-in to the Officer I was put into the waiting area cage, and I counted the amount of people who were there, inside and outside of the cage. I counted 72 individuals, and 3 security Officers. The Infirmary waiting area has a sitting capacity of 42 people.

My Grievance is twofold, first the Medical Department by laying in so many people "Staged" the waiting area to a capacity that was overflowing and possibly creating a safety issue; Secondly, the Medical Department is "Allowing, Condoning, and Supporting" homosexual activities, to wit, allowing homosexuals off of 3 Building to meet up with their "Lovers" in the waiting area of the Infirmary under the ruse of "Seeking medical attention, or Respite for heat." These "Offenders" either have to have an escort to the Infirmary, or a valid lay-in to be there, but whatever the reasoning, the Medical Department, by failing to supervise the waiting area looks the other direction while the "activities" are going on. While I was there, I witnessed no less than 3 different "couples" enjoying their activities while those around them had to be subjected to what they were doing.

They lack of proper supervision by the Medical Department concerning the "over booking" of Offenders for seeing the providers, or receiving whatever medical treatments raises the issue of the safety of Offenders in an area that is designated for only 42 Offenders to safety sit, this designation is determined by the benches inside the waiting area, and what is deemed adequate for security to maintain the safety of those inside the waiting area.

I believe that my allegations can be supported by the fact that the waiting area does have an

camera, thus can be reviewed to verify what I am talking about concerning both the issue of the staging of Offenders, and the amount on that day and time; and the activities of several of the participates that I have mentioned within.

CC Patient Liaison Program, (PLP)

P.O. Box 99

Huntsville, Texas 77342-0099

Mr. James Booker, (TDCJ-CID)

Central Grievance

1060 State Hwy 190 East

Huntsville, Texas 77320

Action Requested to resolve your Complaint.

Would like to see the Medical Department properly supervise the waiting area so those of us who are there for legitimate reasons aren't subjected to the activities of those who aren't.

Offender Signature:

Roger Fain

700474

Date: December 6th 2019

Grievance Response:

- Offender Fain, please be advised after reviewing your medical records and grievance, we take your medical concerns into full consideration. You were indeed scheduled a provider appointment on 11/25/19, in which you left prior to being seen. Please keep in mind; it is imperative to keep and attend all scheduled appointments in order to receive the care needed. You were finally seen by the provider on 1/6/20 for blood pressure evaluation. The medical department has been made aware of the capacity of the cage and informed to stagger patient appointments. It is security's responsibility to ensure that inappropriate things aren't occurring in the waiting area. Also, it is security's responsibility to manage the flow of the cage. Please submit sick call request as necessary. You have been provided care per policy. This grievance is unsubstantiated.

Signature Authority:

Edward D.

Date: 3/2/20

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Executive Office Director within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Note: and because: *Resubmit this form when the corrections are made.

- 1. False or misleading statement
- 2. Statement or behavior that is threatening
- 3. Original or duplicate
- 4. Inappropriate/Excessive/Abusive
- 5. No documented attempt to inform, resolve, etc.
- 6. No requested relief is agreed *
- 7. Malicious use of vulgar, indecent, or physically threatening language
- 8. The issue presented is not grievable
- 9. Redundant. Refer to grievance #
- 10. Illegible/incomprehensible *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

I-127 Back (Revised 11-2010)

088

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #: _____	Screening Criteria Used: _____
Date Recd from Offender: _____	Date Returned to Offender: _____
Date Returned to Offender: _____	Date Recd from Offender: _____
2 nd Submission	UGI Initials: _____
Grievance #: _____	Screening Criteria Used: _____
Date Recd from Offender: _____	Date Returned to Offender: _____
Date Returned to Offender: _____	Date Recd from Offender: _____
3 rd Submission	UGI Initials: _____
Grievance #: _____	Screening Criteria Used: _____
Date Recd from Offender: _____	Date Returned to Offender: _____
Date Returned to Offender: _____	Date Recd from Offender: _____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1 X

STEP 2

Unit: ST Investigator ID: I 2534 Date Initiated: 12/09/19 Date Completed: 3/3/20 Date Due: 01/23/19
 Offender Name: Fain, Roger TDCJ No: 700474 Grievance Number: 2020D46310

Issue Code:	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA Disciplinary Medical	() () (X)	Property Religion OPI Investigation	() () ()	Use of Force (UOF) Harassment or Retaliation* PREA	() () ()
506							

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity

Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unrepa...
 UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

Claims that on 11-25-19 he had a layin for medical department to see provider Davis when he arrived to infirmary at 7:10am for a layin that was for 530am the waiting area was packed over capacity of 42 people namely he counted 72 people. Claims that homosexual activites were taken place witnessed 3 different couples enjoying themselves. Claims that this is lack of supervision on medical department due to overbooking and staggering offenders.

Requested Remedy:

To be seen by DR and have this noted

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Appendix L

Suggested Response to Offender:

Offender Fain, please be advised after reviewing your medical records and grievance, we take your medical concerns into full consideration. You were indeed scheduled a provider appointment on 11/25/19, in which you left prior to being seen. Please keep in mind; it is imperative to keep and attend all scheduled appointments in order to receive the care needed. You were finally seen by the provider on 1/6/20 for blood pressure evaluation. The medical department has been made aware of the capacity of the cage and informed to stagger patient appointments. It is security's responsibility to ensure that inappropriate things aren't occurring

OUTCOME CODE: INVESTIGATOR **RESPONSE CODE:** RESOLUTION **CODE:** RESPONSIBILITY to manage the flow of the cage. Please submit sick call request as necessary. You have been provided care per policy. This grievance is unsubstantiated.

Investigating official completes the section below:

Printed Name: Colonel DeLoe Signature: Eduard D. DeLoe

Title: Sr. Practice Manager

Date: 3/2/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in RP-03.77 and AD-03K1. It is expressly prohibited to subject the grievant, other offenders, or staff to form of reprisal for the use of these procedures.

Exhibit 1

090

Documents and Forms Required for Investigation of Medical Grievances
The following forms and documentation are generally required for grievance investigations.

		Date	Name & Title	
			Y	N
1	Unit Grievance Investigator forwards the original grievance, or a copy for multiple issue medical grievances, the OG-01 worksheet, and <u>page 1 of this checklist</u> to the Medical Department.	12-09-19	S THOMAS UGI III	
2	Unit Practice Manager/Health Administrator, or Director of Nursing/Nurse Administrator reviews issues, routes to responsible party and compiles the following paperwork:	3/2/20	Edward De lone, SPM	
2(a)	Supporting documentation from the medical record		N/A	Comments
	• Provider/Nursing/Clinic Notes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	• Refusal forms	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Sick Call Requests/Sick Call logs	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Master Problem List	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• X-ray reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Specialty clinic notes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Lab reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• PULHES/HSM-18	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Passes-medication/medical issue items (braces, crutches, shoes, etc.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Dental records	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Mental health records	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Treatment flow sheets	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Lay-in lists	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Security Logs	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Compliance reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Discharge summaries	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	• Release of Information-Hospital Galveston only	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Provide other written records required to offer proof of provision of services. All persons participating in clinical and non-clinical services to offenders are bound by the same rules of confidentiality and shall not be excluded from viewing such records necessary to complete the review/appeal process.			
2(b)	Copies of all signed statements from medical/dental/mental health staff who are specifically named in the Step 1 Grievance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2(c)	Individual medical/dental/mental health discipline manager/designee findings & recommendations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2(d)	Informal resolution attempted by the offender through the Facility Medical Complaints Coordinator before the Step 1 Grievance was filed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3	Sign and forward all compiled Health Services documentation and statements to the Grievance Investigator.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4	Received by the Unit Grievance Investigator signature.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

* The Unit Grievance Staff is responsible for obtaining non-medical statements and forwarding all investigative documents to the Central Grievance Office in Huntsville, if a Step 2 Offender Grievance is filed.

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2020046310	Fain,Roger	700474	ST



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (*check the applicable box*)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (*check the applicable box*)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

S.THOMAS UGI III

Name and Title

01-22-20

Date

Original – Send to the Offender

Copy – Attach to the Grievance

Grievance Investigation Worksheet
Restricted & Confidential

Grievance Office Use Only		Step 1 Step 2 X				
Unit: ST - STILES Investigator ID: HC00101 Date Initiated: 3/17/20		Date Completed: 3/18/20			Due Date: 4/20/20	
Offender Name: FAIN, ROGER		TDCJ No: 00700474			Grievance No: 2020046310	
Issue Code: B00, B03, B09, 606, 631	Emergency Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	ADA <input type="checkbox"/>	Property <input type="checkbox"/>	PREA <input type="checkbox"/>		
		Disciplinary <input type="checkbox"/>	Religion <input type="checkbox"/>	Use of Force (UOF) <input type="checkbox"/>		
<small>* Harassment or Retaliation for use of the Grievance Procedure, Access to Courts, or other legal activity</small>						

NOTE: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual assault, sexual abuse, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of the Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location.) See Step 1 OG-01 Grievance Investigation Worksheet

The offender claims on 11/25/2019 the waiting area in medical was over booked at capacity and homosexual activities were not being supervised. To remedy this, he is requesting medical properly supervise waiting area activities so others do not have to watch.

Requested Remedy: See Step 1 OG-01 Grievance Investigation Worksheet.

The following is to be completed and signed by the Investigating Official. Attach Statements/Support Documentation, If applicable.

Summary of Fact Finding Activity:

The appellate review concurs with the response at Step 1. No documentation of retaliation or harassment. Resolved at unit level.

Suggested Response to Offender:

A review of the medical grievance and documentation has been completed regarding your medical complaint on 11/25/2019 the waiting area in medical was over booked at capacity and homosexual activities were not being supervised. To remedy this, you are requesting medical properly supervise waiting area activities so others do not have to watch.

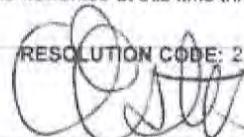
An appellate review of the medical grievance and clinical record indicates the response from Step 1 is appropriate. Upon further review of your electronic health records, there is no documentation of harassment or retaliation against you. Furthermore, your allegations of homosexual activity and overbooking of appointments has been resolved at the unit level. As per Step 1 response, medical has been made aware of overbooking and to stagger offenders. Should you require further medical assistance, please utilize the sick call process.

Further documentation indicates you did not attempt an informal resolution of your medical concern with supervisory staff. Please refer to Correctional Managed Health Care (CMHC) policy A-12.1, attachment A, regarding getting medical treatment. No further action is warranted at this time through the grievance process.

OUTCOME CODE: DENIED/NO ACTION IS WARRANTED (Grievance Office Use Only)

Investigating Official completes the section below.

Printed Name: ESTES, CHERYN

Signature: 

RESOLUTION CODE: 2.01

Title: Administrative Assistant IV

Date: 3/20/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-03.82. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Dale Dorman, RN
Manager III
TDCJ Health Services

Grievance #: 2020046310

OG-01 Rev. 07/2016

Exhibit 1

098 Appendix H



Texas Department of Criminal Justice

STEP 2**OFFENDER
GRIEVANCE FORM**Offender Name: Roger Fain TDCJ # 00700474Unit: Mark W. Stiles Housing Assignment: 4D 3 - 60BUnit where incident occurred: 4 Building D-Pod Stiles Unit**OFFICE USE ONLY**Grievance #: 2020042352UGI Recd Date: 01-10-20HQ Recd Date: JAN 14 2020Date Due: 02-19Grievance Code: 703

Investigator ID#: _____

Extension Date: _____

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...
The issue raised, "Denial Of Access To Court & Failing to Provide Legal Cases/Citings During A Unit Lockdown."*

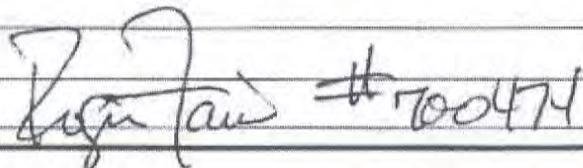
My Grievance was filed in "Good Faith" hoping that the issue would be properly addressed and resolved, instead, whoever Investigated the issue and/or whoever Answered the issue failed to understand that the issue was about "NOT RECEIVING LEGAL CASES/CITINGS DURING LOCKDOWN NOT ABOUT RECEIVING INDIGENT SUPPLIES."

Furthermore, I do not have a clue as to who signed off on the Step I Grievance, there is no indication if it is a Warden's signature, or someone other than the Warden, but whoever it is very arrogant, and their arrogance is reflected in the signature, or better yet is so embarrassed by the Grievance Response that they didn't wish to have anyone know who exactly reviewed the Step I and responded by signing off on the response.

Here is another example on what a joke the TDCJ-CID Grievance procedure actually is, not only on Stiles, but on other Units. Its a system that is broken, in this sense it doesn't work for the person who actually brings the Grievance, but is very beneficial for the party who is the reason for the Grievance in the first place.

Copy of this Grievance has been sent to James Booker, Central Grievance Coordinator in Huntsville

Offender Signature:



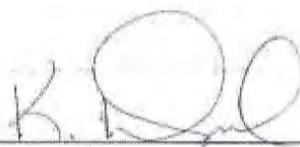
Date: January 9th 2020

Grievance Response:

Your step 1 complaint has been noted. The delivery of legal research material to offenders with indirect access to the law library will be conducted, in accordance with ATC-080. No further action is warranted.

K. Ward, Program Administrator
Access to Courts, Counsel and Public Officials

Signature Authority:



Date: 1-30-2020

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted.*
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY	
Initial Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	_____
Comments: _____	
Date Returned to Offender: _____	
2 nd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	_____
Comments: _____	
Date Returned to Offender: _____	
3 rd Submission	CGO Initials: _____
Date UGI Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened <input type="checkbox"/> Improperly Submitted	_____
Comments: _____	
Date Returned to Offender: _____	

Exhibit 1

095



STEP 1

OFFENDER
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Mark W. Stiles Housing Assignment: 4D 3-60B
 Unit where incident occurred: Stiles

OFFICE USE ONLY

Grievance #: 2020042352
 Date Received: DEC 02 2019
 Date Due: 01-11-20
 Grievance Code: I16200 703
 Investigator ID #: 72634
 Extension Date:
 Date Retd to Offender: NOV 06 2019

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Officer Simon, Law Library When? 11/27/2019

What was their response? I was told that legalwork was passed out by buildings, not by when it came in

What action was taken? None, I have been denied legalwork thus denied access to courts.

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate
 On November 12th 2019, this Unit went down on lockdown for a shakedown. On that date I submitted a Request for case citings. On 11.21 I received those case citings. I resubmitted those for other case citings when Mr. Simon of the Law Library picked up the cases I received on 11/21, this was a friday, 11/22. I was told then that I would receive my next requests on the following monday, 11/25. Monday came and went, no cases, tuesday came, and Mr. Simon passed out legalwork on 4D sections 1, 2, & 3, yet I didn't receive my requested case citings. When Mr. Simon came to pick up the legalwork that he passed out on tuesday, I asked him about my submitted request for case citings, he informed me that they do the legalwork by buildings. This I understand, but my request for case citings was submitted and picked up on friday, 11.22, ample time to have received my case citings on monday or tuesday, when others on 4 Building received theirs.

I have two active cases going in the Courts, Williamson County, Cause No: 95-112-K277; and in Tarrant County, Cause No: 1023944D / 02-08-00002-CR. The lack of receiving the requested case citings has put me in a position where I could become time barred from further pursuing my cases through the Courts. The Law Library on the Stiles Unit by their inaction to my requests for case citings has "Knowingly, Intentionally, and with Deliberate Indifference" to my case denied me adequate recourse to properly research, and present my case to the Courts. They are in violation of TDCJ-CID Policies, Procedures, & Regulations concerning Access To Courts. By failing to get me my requested case citings, and to deliver those cases to me, has the potential of denying me legal recourse in the Courts, and the Courts aren't concerned about the Unit Law Library's failure to deliver, because it is the responsibility of the appellate to meet any and all Court deadlines, not the Law Library, and that is why TDCJ-CID Has Policies in place concerning the Access To Courts Regulations so the appellate/offender isn't denied legal recourse in the Courts.

C.C. Access To Courts, 1036 11TH Street, Huntsville, Texas 77340;

James Booker, (TDCJ-CID), Central Grievance, 1060 State HWY 190 East, Huntsville, Texas 773

Action Requested to resolve your Complaint.

That the Law Library comply with the TDCJ-CID Policies concerning Access To Courts, and for me to be free of any Administrative retaliation for grieving this matter.

Offender Signature:

Roger Fair 700474

Date: November 27th 2019

Grievance Response:

Your grievance was reviewed and investigated. It was found that you have not requested any indigent supplies. You need to submit an I-302 or I-60 to the Law Library Department if you need indigent supplies. No further action warranted.

Signature Authority:

KPR

Date: 1-7-2020

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE

OFFENDER GRIEVANCE PROGRAM

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**RESTRICTED
AND
CONFIDENTIAL**

GRIEVANCE INVESTIGATION WORKSHEET

d & Confidential

EVANCE OFFICE USE
LY

Offit:	ST	Investigator ID:	11122	Date Initiated:	12/02/19	Date Completed:	1/3/20	STEP 1 X
Offender Name:	Fain, Roger			TDCJ No:	700474	Grievance Number:	2020042352	STEP 2
Issue Code:	EMERGENCY 703 YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA Disciplinary Medical	() () ()	Property Religion OPI Investigation	() () ()	Use of Force (UOF) Harassment or Retaliation* PREA	() () ()	

*Harassment or Retaliation of the use of the Grievance Procedure, Access to Courts, or other Legal Activities UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

Offender says that he was denied access to legal material during the Lockdown

Requested Remedy:

Wants Law Library to follow TDCJ Policy

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Statement- L. Jones/Law Librarian III

Suggested Response to Offender:

Your grievance was reviewed and investigated. It was found that you have not requested any indigent supplies. You need to submit form I-60 to the Law Library Department if you need indigent supplies. No further action will be taken.

OUTCOME CODE: D RESOLU CODE: 2.02

Investigating official completes the section below

Printed Name: A. Rodriguez

Title: UGI

Signature:

Date:

Exhibit 1

099

A grievance is being processed in an effort to resolve a problem through procedures identified in BP-03.77 and A grievant is expressly prohibited to subject the grievant, other offenders, or staff to any reprisal for the use of these procedures.

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY				STEP 1 X			
				STEP 2			
Unit: ST	Investigator ID: I 1122	Date Initiated: 12/02/19	Date Completed: 1/3/20	Date Due: 01/11/20			
Offender Name: Fain, Roger		TDCJ No: 700474	Grievance Number: 2020042352				
Issue Code: 703	EMERGENCY YES () NO (x)	ADA Disciplinary () Medical ()	Property () Religion () OPI Investigation ()	Use of Force (UOF) () Harassment or Retaliation* () PREA ()			
	<small>*Harassment or Retaliation or Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small>						
	<small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>						
Summary of Issue: (Include date, time and location): Offender says that he was denied access to legal material during the Lockdown							
Requested Remedy: Wants Law Library to follow TDCJ Policy							

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

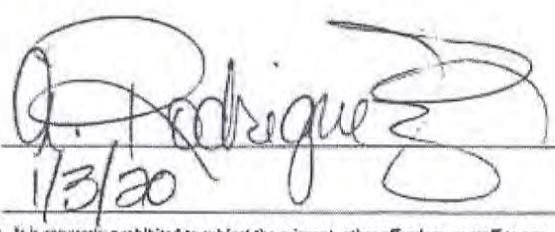
Summary of Fact Finding Activity:1. Statement- L. Jones/Law Librarian III**Suggested Response to Offender:**

Your grievance was reviewed and investigated. It was found that you have not requested any indigent supplies. You need to submit an I-302 or I-60 to the Law Library Department if you need indigent supplies. No further action warranted.

OUTCOME CODE: D RESOLUTION CODE: 2.02

Investigating official completes the section below:

Printed Name: A. Rodriguez

Signature: 

Title: UGI

Date: 1/3/20

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1**100**

GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ST	Staff Name: Law Library	Grievance #: 2020042352	Date: 12/02/19
Offender Name: FAIN, ROGER	TDCJ#: 00700474	Housing Location: 4-D-3-69B - 01/11/20	

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

<input type="checkbox"/> Participant(s) Statement	<input type="checkbox"/> Witness (es) Statement (signed)	<input type="checkbox"/> Other
<input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding)	<input type="checkbox"/> Shift Roster	<input type="checkbox"/> Staff or Offender Protection Investigation
<input type="checkbox"/> Ingress/Egress Log	<input type="checkbox"/> Property Confiscation Form	<input type="checkbox"/> Property Inventory Forms
<input type="checkbox"/> Property Confiscation Form		<input type="checkbox"/> Property Logs

ALLEGATIONS:

Offender claim he denied his indigent supplies on November 26, 2019, during the institutional lock down. Please explain or confirm if offender was given his indigent supplies in accordance with procedure and policy?

EMPLOYEE STATEMENT:

PRINTED NAME SIGNATURE DATE

RANK/TITLE SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: *The file is Law library has not received a request from Roger Fain asking for Indigent supplies. Officer Fain can submit an I-302 or I-60 requesting supplies and if file is still a lock down status supplies will be issued.*

L. Jones J. Jon 12/16/2019

PRINTED NAME SIGNATURE DATE

Law Librarian III J. Jon 12/16/2019

RANK/TITLE SHIFT/DEPARTMENT

See attached Indigent Supply Issue Screen

Exhibit 1

101

CSPSTP01 T.D.C.J. - INSTITUTIONAL DIVISION DATE: 12/06/19
1JUK INDIGENT SUPPLIES ISSUE TIME: 13:43:24
TDC NUM: 00700474 NAME: FAIN, ROGER
HOUSING: ST 4D32 CELL: 60 ID STAT: A PERSONAL
DATE OF ISSUE: RESTRICTED: LEGAL
INDIGENT: NO TOTAL

PAPER REQ	CARBON REQ	BSN ISS	ENV REQ	WRT ISS	ENV RQ	PENS IS	STAMPS	OTHER \$	STAMPS QNT					
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PER
LEG

=>> WARNING <<= OFFENDER MAY HAVE NEGATIVE MAIL

OR KEY IN NUMBER

CSPSTP04
TERM: 1JUKT.D.C.J. - INSTITUTIONAL DIVISION
INDIGENT SUPPLIES ISSUEDATE: 12/06/19
TIME: 13:37:13

NUMBER: 00700474 NAME: FAIN, ROGER												UNIT: STILES									
DATE	A	K	P	AI	PAPER	CARB	BUSN	WRIT	PEN	R	I	55	15	90	00	05	QNT	\$	QNT	\$	TRANS
D	C	L	XD	RQ	IS	RQ	IS	RQ	IS	R	I										TOTAL
122309	A	K	P	U	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	1.32
122309	A	K	L	U	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
120309	A	K	P	U	0	0	0	5	5	0	0	0	0	0	0	0	0	0	0	0	0.10
120309	A	K	L	U	0	0	0	5	0	2	0	1	0	0	0	0	0	0	0	0	0.00
071709	A	K	P	A	0	0	0	0	0	0	0	20	2	0	0	0	0	0	0	0	9.14
071709	A	K	L	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
110108	A	K	P	A	0	0	0	0	0	0	0	21	0	0	0	0	0	0	0	0	8.82
110108	A	K	L	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
050206	A	K	P	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
050206	A	K	L	A	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0.08
011206	A	K	P	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
011206	A	K	L	A	0	0	0	0	0	3	3	0	0	0	0	0	0	0	0	0	0.12
011106	A	K	P	A	0	0	0	0	0	0	0	99	0	0	0	0	0	0	0	0	36.63
011106	A	K	L	A	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00
082305	A	K	P	A	0	0	0	5	5	0	0	0	0	0	0	0	0	0	0	0	0.05
082305	A	K	L	A	0	0	0	15	15	0	0	0	0	0	0	0	0	0	0	0	0.15

ENTER NEXT NUMBER 00700474 PF4 - 1ST SCREEN PF8 - MORE RECORDS PF9 - PRINT
OR SID PA1 - MENU

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY			STEP 2
Unit: ATC CGI: Keisha Green Offender Name: Fain, Roger Grievance No: 2020042352		Date Initiated: 01/22/20 TDCJ No: 700474 Code: 703	Date Completed: 1/29/2020 Housing: ST Date Due: 02/19/20
EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	USE OF FORCE MAJOR <input type="checkbox"/> MINOR <input type="checkbox"/> UR <input type="checkbox"/>	DISCIPLINARY ISSUE MAJOR <input type="checkbox"/> MINOR <input type="checkbox"/>	PROPERTY <input type="checkbox"/> ADA <input type="checkbox"/> RELIGION <input type="checkbox"/> SSI <input type="checkbox"/> MEDICAL <input type="checkbox"/>
UOF #		#	

Summary of Issue:

(Include date, time /location.) **NOTE:** For claims of Excessive/Unreported UOF, or Harassment/Retaliation for use of the Grievance Procedure or Access to Courts rights, other legal activities, the investigation must be conducted by Internal Affairs. Complete the Fact Sheet for I.A.D. Investigations.

Offender claims that on 11/12/19 the unit went on lockdown and on this date, he submitted a request for case citings. On 11/21/19 he did receive the cases. Claims he resubmitted those for other cases citings and Mr. Simon picked up the cases that he received on 11/21/19. He was told then that he would receive his next request on the following day of Monday, 11/25/19. States Monday came and he did not get cases. On Tuesday Mr. Simon passed out legal work on 4D sections 1,2 and 3, and he didn't receive his requested cases.

Requested Remedy:

Law Library comply with the TDCJ-CID policies concerning Access to Courts, and for me to be free of any Administrative retaliation for grieving this matter.

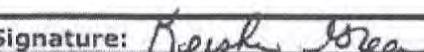
The following is to be completed by the investigating official. The investigating official must sign the bottom.
(Attached Statement/Supporting Documentation is applicable.)

Summary of Fact Finding Activity:

1. Step 1 grievance was noted
2. Statement dated 12/06/19 from L. Jones: The Stiles law library has not received a request from offender Fain asking for Indigent Supplies. Offender Fain can submit an I-302 or I-60 requesting supplies and if Stiles is still on lockdown status supplies will be issued.
3. Telephone conversation on 01/29/2020 with L. Jones, Law Library Supervisor informing her that the offender was not grieving supplies. His complaint was about not receiving legal research material.
4. ATC-080; BP-03.81
5. R- 5.02

Suggested Response to Offender:

Your step 1 complaint has been noted. The delivery of legal research material to offenders with indirect access to the law library will be conducted, in accordance with ATC-080. No further action is warranted.

Completed By:	Signature: 	Date: 1/29/2020
	Printed Name: Keisha Green	Title: Reg. Supervisor



Texas Department of Criminal Justice
STEP 2 OFFENDER
GRIEVANCE FORM

Offender Name: Roger Fain TDCJ # 00700474
 Unit: Wm.G.McConnell Housing Assignment: 19 Building Y-007
 Unit where incident occurred: 19 Building Gym Area/ Y Dorm

OFFICE USE ONLY	
Grievance #:	<u>2018131019</u>
UGI Recd Date:	<u>AUG 01 2018</u>
HQ Recd Date:	<u>AUG 08 2018</u>
Date Due:	<u>9/10</u>
Grievance Code:	<u>810</u>
Investigator ID#:	<u>2197</u>
Extension Date:	<u>10/20</u>

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

Once again the grievance procedure which is designed to allow Offenders to bring a claim of misconduct, or other so called infractions forth to have the Offending Officer looked at, and possibly taken to account for the infraction.

My grievance was against a ranking Officer who violated numerous TDCJ & TDCJ-CID Policy, Rules and Procedures. I cited those infractions, and I have in fact in the past grieved this same ranking Officer for the same infractions, again to no avail.

The grievance system and process on the McConnell Unit fails the Offender population because it rarely finds in the Offender's favor. Case in point, an Offender states a claim against the Officer, and the grievance investigator goes to that Officer and asks: "Did this happen???

the Officer's reply would naturally be: "Absolutely not, I would never violate TDC Rules."

Grievance is then and there done with, resolved in favor of the Offender, once again. The claim I brought forth has been brought forth by other similar situated Offenders and at no time does the investigator reference that fact in making their determination for the Warden's Response/Signature.

This grievance is just a formality, necessary to pursue this matter into the Courts. The ranking Officer is a continuing threat to the security of this Unit and those who are being held here.

Offender Signature:



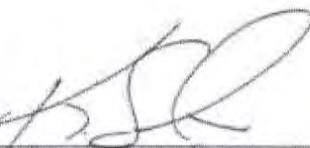
Date: July 31st 2018

Grievance Response:

Your complaint has been noted and was appropriately addressed at step one. You failed to provide names of witnesses or any evidence to collaborate your allegations. No further action warranted.

K. Gaitan, Assistant Regional Director

Signature Authority:



Date: 10/18/2018

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted.*
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY	
Initial Submission	CGO Initials: _____
Date UGI Recd:	_____
Date CGO Recd:	_____
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments:	_____
Date Returned to Offender:	_____
2 nd Submission	CGO Initials: _____
Date UGI Recd:	_____
Date CGO Recd:	_____
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments:	_____
Date Returned to Offender:	_____
3 rd Submission	CGO Initials: _____
Date UGI Recd:	_____
Date CGO Recd:	_____
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments:	_____
Date Returned to Offender:	_____

Exhibit 1

**STEP 1****OFFENDER
GRIEVANCE FORM**Offender Name: Roger Fain TDCJ # 00700474Unit: McConnell Housing Assignment: 19 Y-007Unit where incident occurred: 19 Building, Y Dorm/18 Building Gym**OFFICE USE ONLY**Grievance #: 2018131019Date Received: 5.10.18Date Due: 6.19.18Grievance Code: 810Investigator ID #: 1950Extension Date: 07/29/18Date Retd to Offender: JUL 30 2018

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Lt. Garcia was the only ranking officer When? May 8th 2018

What was their response? There was no response since she was the sole acting ranking officer

What action was taken? Told to live with it, and deal with it

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On May 8th 2018, approxiamtely 11:30 am, Lt. Garcia came into Y-Dorm and told all of us to pack it up, and she stated that we were required to make the move into the gym with all of our property in one move. I told Lt. Garcia that I have medical restrictions that prohibits me from lifting more than 10 pounds. She told me that she didn't give a s--t about my restrictions, that she had contacted the medical department and that they instructed her that any and all restric-
were for "Work related only" and did not manner outside of the work place.

I stacked up my property, and she then instructed me to "drag" my property, unbaged, and loose on my sheet. This action not only damaged the sheet beyond repair, some of my property was also damaged. (I still have the sheet, and I will hold it until this matter is resolved. The wanton destruction of State property by a ranking officer and/or official is in violation of TDC Policies, Procedures and Rules).

During the shakedown procedure, Lt. Garcia violated the following Guidelines of Employees. PD-22 #7, Substandard Duty Performance; PD-22 #14, Use Of Profane & Vulgar/Abusive Language; PD-22 #23, Mistreatment Of Offenders; PD-22 #29, Damage, Destruction Of Property Owned or Leased By TDCJ; PD-22 #37, Misconduct.

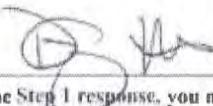
I have raised the issue of PD-22 #37, Misconduct - An employee is prohibited from engaging in any activity that would have an adverse impact upon the integrity or productivity of the employee or the Agency. In this case Lt. Garcia's actions were harmful, setting a bad example to the employees, quite a few new within a matter of months, that Profane, Vulgar language and/or treatment was permissible in the way an Offender was treated during a shakedown, or at any other time. Her actions, if not audio, visual was captured on the cameras in 19 gym, rec yard, and 18 gym.

Action Requested to resolve your Complaint.
 I would like this matter seriously investigated, and the appropriate action taken. Furthermore
 I do not wish to be threatened, retaliated on or otherwise hassled for bringing forth this matter.

Offender Signature: Roger Tait 700474 Date: May 9th 2018

Grievance Response:

Your complaint has been reviewed. Investigation revealed no evidence to substantiate your allegation of staff use of profanity or of any staff misconduct. No further action is warranted by this office.

 Warden D. Fernandez

Signature Authority:

Date: JUL 27 2018

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant. Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2 nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY				STEP 1 X			
				STEP 2			
Unit: <u>ML</u>	Investigator ID: <u>I 1950</u>	Date Initiated: <u>05/10/18</u>	Date Completed: <u>07/27/18</u>	Date Due: <u>06/19/18</u>			
Offender Name: <u>Fain, Roger</u>		TDCJ No: <u>00700474</u>	Grievance Number: <u>2018131019</u>				
Issue Code: <u>810</u>	EMERGENCY	ADA <input type="checkbox"/>	Property <input type="checkbox"/>	Use of Force (UOF) <input type="checkbox"/>			
	YES <input type="checkbox"/>	Disciplinary <input type="checkbox"/>	Religion <input type="checkbox"/>	Harassment or Retaliation* <input type="checkbox"/>			
	NO <input checked="" type="checkbox"/>	Medical <input type="checkbox"/>	OPI Investigation <input type="checkbox"/>	PREA <input type="checkbox"/>			
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activity</small> <small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>							

Summary of Issue: (Include date, time and location):

See Attached Narrative

Requested Remedy:

I would like this matter seriously investigated and the appropriate action taken. Furthermore i do not wish to be threatened, retaliated on or otherwise hassled for bringing forth this matter.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

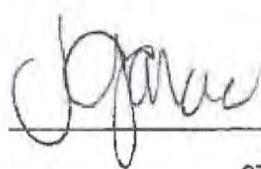
Statement - Lt. Garcia 1B/GP

Suggested Response to Offender:

Your complaint has been reviewed. Investigation revealed no evidence to substantiate your allegation of staff use of profanity or of any staff misconduct. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 20

Investigating official completes the section below:

Printed Name: J. GarciaSignature: Title: Investigator IIIDate: 07/27/18

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BI-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

110

GRIEVANCE INVESTIGATION WORKSHEET

PAST DUE

Official Statement

Unit: ML	Staff Name: Lt. Garcia 1B/GP	Grievance #: 2018131019	Date: 05/10/18
Offender Name: Fain, Roger	TDCJ#: 00700474	Housing Location: 19Y-007	

In accordance with BP 03 77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

<input type="checkbox"/> Participant(s) Statement			
<input type="checkbox"/> Witness (es) Statement (signed)			
<input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding)	<input type="checkbox"/>	Other _____	
<input type="checkbox"/> Shift Roster	<input type="checkbox"/>	Staff or Offender Protection Investigation	
<input type="checkbox"/> Ingress/Egress Log	<input type="checkbox"/>	Property Inventory Forms	
<input type="checkbox"/> Property Confiscation Form	<input type="checkbox"/>	Property Logs	

ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: At notice did I tell the offender that I didn't care about medical restrictions and offender with lifting /medical restraints were provided with a cart. All other offenders were instructed to remove their property in one trip however allow them to make mutual stops/trips within the one trip to avoid offenders from walking back and forth unsupervised.

CHARLES

PRINTED NAME

CARL

SIGNATURE

1-918

DATE

1st

RANK/TITLE

1BGP

SHIFT/DEPARTMENT

SUPERVISOR COMMENTS:

Lt Garcia denied being as faulty and also denied showing indifference to the plight of offenders on medical restriction during the lockdown. Lt Garcia actions were consistent with AD 3.31 & lockdown procedure.

Nina Chukwu 100

PRINTED NAME

2f

SIGNATURE

07/17/18

DATE

RANK/TITLE

SHIFT/DEPARTMENT

1BGP

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

On May 8th 2018, approximately 11:30 am, Lt. Garcia came into Y-Dorm and told all of us to pack it up, and she stated that we were required to make the move into the gym with all of our property in one move. I told Lt. Garcia that I have medical restrictions that prohibits me from lifting more than 10 pounds. She told me that she didn't give a s---t about my restrictions, that she had contacted the medical department and that they instructed her that any and all restrictions were for "Work related only" and did not manner outside of the work place.

I stacked up my property, and she then instructed me to "drag" my property, unbagged, and loose on my sheet. This action not only damaged the sheet beyond repair, some of my property was also damaged. (I still have the sheet, and I will hold it until this matter is resolved. The wanton destruction of State property by a ranking officer and/or official is in violation of TDC Policies, Procedures and Rules).

During the shakedown procedure, Lt. Garcia violated the following Guidelines of Employees. PD-22 #7, Substandard Duty Performance; PD-22 #14, Use Of Profane & Vulgar/Abusive Language; PD-22 #23, Mistreatment Of Offenders; PD-22 #29, Damage, Destruction Of Property Owned or Leased By TDCJ; PD-22 #37, Misconduct.

I have raised the issue of PD-22 #37, Misconduct - An employee is prohibited from engaging in any activity that would have an adverse impact upon the integrity or productivity of the employee or the Agency. In this case Lt. Garcia's actions were harmful, setting a bad example to the employees, quite a few new within a matter of months, that Profane, Vulgar language and/or treatment was permissible in the way an Offender was treated during a shakedown, or at any other time. Her actions, if not audio, visual was captured on the cameras in 19 gym, rec yard, and 18 gym.

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2018131019	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (*check the applicable box*)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (*check the applicable box*)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

J. Garcia, Investigator III

Name and Title

06/19/18

Date

Original – Send to the Offender

Copy – Attach to the Grievance

Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018131019	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice
NOTICE OF EXTENSION
 Offender Grievance Office

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- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR
 Name/Title

A handwritten signature in black ink, appearing to read "L. PELITIRE".

09/04/2018
 Date

Original – Send to the Offender
 Copy – Attach to the Grievance

Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018131019	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice
NOTICE OF EXTENSION
 Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR
 Name/Title

A handwritten signature in black ink, appearing to read "L. PELITIRE".

09/04/2018
 Date

Original – Send to the Offender
 Copy – Attach to the Grievance

• Restricted & Confidential

GRIEVANCE OFFICE USE ONLY							STEP 1				
							STEP 2 X				
Unit	R4	INV ID:	I2197	GR #	2018131019	Date Initiated:	10/15/18	Date Completed:	10/15/18	Due Date	10/20/2018
Offender Name: FAIN, ROGER					TDCJ No:	700474	Housing:	ML			
Issue Code:		EMERGENCY	ADA	()	Property	()	Use of Force (UOF)	()			
810		YES	()	Disciplinary	()	Religion	()	Harassment or Retaliation*	()		
		NO	(X)	Medical	()	OPI Investigation	()	PREA	()		

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal ActivityNote: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.**Summary of Issue: (Include date, time and location):**

Offender is claiming that Lt. Garcia advised them to pack up their belongings and go to the gym. Offender claims that he advised Lt. that he was on restrictions and that Lt. Garcia told him that she didn't give a shit about his restrictions and that it only applied to work. Offender claims that he should not be lifting more than 10 pounds. Offender claims he did what he was instructed and dragged his property in his sheet which was damaged. Offender claims that Lt. Garcia violated PD22.

Requested Remedy:

I would like this matter investigated and appropriate action taken. Furthermore, I do not wish to be threatened, retaliated on or otherwise hassled for bringing forth this matter.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.**Summary of Fact Finding Activity:**

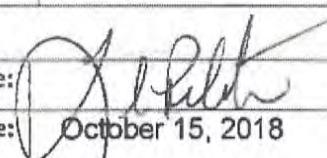
Lt. Garcia statement

Suggested Response to Offender:

Your complaint has been noted and was appropriately addressed at step one. You failed to provide names of witnesses or any evidence to collaborate your allegations. No further action warranted.

OUTCOME CODE:	D	RESOLUTION CODE:	2.02	(Grievance Office Use Only)
----------------------	---	-------------------------	------	-----------------------------

Investigating official completes the section below:

Printed Name:	Lisa Pelitire	Signature:	
Title:	AA IV	Date:	October 15, 2018

This grievance is being processed in an effort to resolve a problem through the established procedures identified in RP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF WALKER §

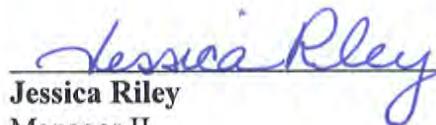
BEFORE ME, the undersigned authority, on this day personally appeared Jessica Riley, who, being by me duly sworn, deposed as follows:

My name is Jessica Riley and I am an employee of the Texas Department of Criminal Justice (TDCJ), a governmental agency. I am over 21 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

I am the custodian of records for the Inmate Grievance Department, a part of the TDCJ located in Huntsville, Texas. Attached are true and correct copies of *the grievance records for Inmate Fain, Roger E., TDCJ #700474, CN#5.20-CV-001149, for the time period of 1/1/2016 to 12/12/2020*, which are kept by the TDCJ in the regular course of its business activity. The entries of such records were made as a regularly conducted activity and a regular practice of the TDCJ, and were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters.

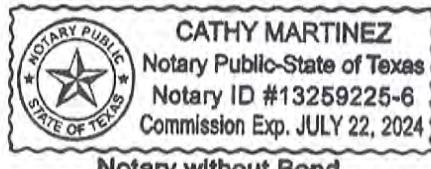
I declare under penalty of perjury that the foregoing is true and correct.

"Further Affiant sayeth not."



Jessica Riley
Manager II
Offender Grievance, ARRM
Texas Department of Criminal Justice

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned notary public, on the 14th day of DECEMBER, 2020.





NOTARY PUBLIC, STATE OF TEXAS

Cathy Martinez
Notary's Printed Name

My Commission Expires:
July 22, 2024



Texas Department of Criminal Justice

STEP 2**OFFENDER
GRIEVANCE FORM**Offender Name: Roger Fain TDCJ # 00700474Unit: McConnell Unit Housing Assignment: 19 Building Y-007Unit where incident occurred: McConnell Unit - A-Turnout

OFFICE USE ONLY	
Grievance #:	<u>201808158</u>
UGI Recd Date:	<u>APR 27 2018</u>
HQ Recd Date:	<u>MAY 02 2018</u>
Date Due:	<u>6/4</u>
Grievance Code:	<u>500</u>
Investigator ID#:	<u>2197</u>
Extension Date:	<u>7/16</u>

You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.

Give reason for appeal (Be Specific). *I am dissatisfied with the response at Step 1 because...*

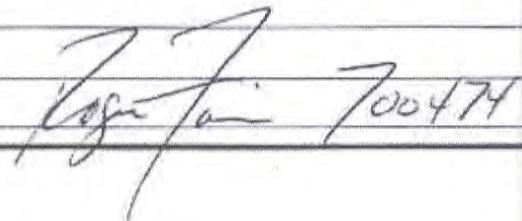
The Assistant Wardens response leaves alot to be desired. It does not address the issue of what the Step-1 stated and that was as a working I was fed exactly the same thing as those who do not work, who do nothing productive on and/or for the Unit.

Warden Furr states that as a worker I am fed what he refers to as a "Modified Hot Meal" he states this is a "Policy" which none exists. What he refers to as a modified hot meal is whatever is prepared, sacked up, is what is fed to those that work just as those who don't work.

Workers are allegedly per TDCJ-CID Policy to be given hot meals, clean clothes, and showers if they work. The issue here isn't concerning the clothes or showers, but the hot meals that are quite the norm on the McConnell Unit doesn't seem to believe that those that work should be treated any differently than those that never work.

The sack meals on the McConnell Unit are not nutritious, wholesome or healthy. They at the very least allow for calorie count, but leave the Offender wanting in a proper, well balanced diet. The lack of a proper balanced diet allows for Offenders to have down the road serious medical issues such as diabetes, or other health related issues.

Offender Signature:



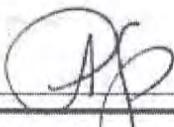
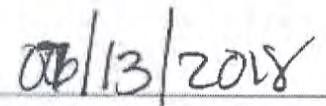
Date: April 26, 2018

Grievance Response:

Your complaint has been noted and appropriately addressed in Step One. All meals are prepared in accordance with Texas Government Code 501.003. This policy indicates that inmates housed in facilities operated by TDCJ are fed good and wholesome food, prepared under sanitary conditions, and provided in sufficient quantity and reasonable variety. Policy does not stipulate that hot meals must be served. All sack meals provided are in accordance with TDCJ policy and procedures and this also includes the correct caloric count for every meal served. No further action warranted.

P. Chapa, Assistant Region IV Director

Signature Authority:

Date: 

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted.*
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: _____

OFFICE USE ONLY**Initial Submission**

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) Screened Improperly Submitted

Comments: _____

Date Returned to Offender: _____

2nd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) Screened Improperly Submitted

Comments: _____

Date Returned to Offender: _____

3rd Submission

CGO Initials: _____

Date UGI Recd: _____

Date CGO Recd: _____

(check one) Screened Improperly Submitted

Comments: _____

Date Returned to Offender: _____

Exhibit 1**119**

Texas Department of Criminal Justice



STEP 1

OFFENDER
GRIEVANCE FORMOffender Name: Roger Fain TDCJ # 00700474Unit: McConnell Housing Assignment: 19 Y-007Unit where incident occurred: McConnell - A-Turnout

OFFICE USE ONLY

Grievance #: 2018081586Date Received: 2/2/2018Date Due: 03/14/2018Grievance Code: I2547 500Investigator ID #: 1950Extension Date: 04/23/18Date Replied to Offender: APR 23 2018

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Martin was at A-Turnout When? 01-29-18

What was their response? When asked about why we're getting Johnnies, I was told to "Live with it..."

What action was taken? After working a shift, Johnnies were served to the Garment Factory workers

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

Monday, January 29th 2018, when the P.M. Garment Factory came in they were informed that they would be given Johnnies for the last meal, I am general population, I work an assigned job yet I am treated worse than Agg-Seg offenders who are for the most part disruptive, and disciplinary problems and do not produce any type of benefits for the Unit, yet they receive hot meals unless they are being shock-down.

My understanding of TDCJ-CID Rules is that if you work, you receive a hot meal; if you work you receive a shower; and if you work you receive clean clothes. Maintenance workers receive hot meals, inside yard and other work squads receive hot meals, yet on a regular basis the Garment Factory workers receive Johnnies and are expected to fall out for work in the A.M. or after working P.M. they often receive a Johnnie.

What is also a problem is how a ranking officer addresses legitimate questions from an Offender with responses such as "Live with it..." Ranking officers are where Offenders are to turn when they cannot get a reply from a COVI, to have a ranking officer reply to a question concerning a properly submitted question with an answer that is off the wall shows a total lack of professionalism and training. Given the same response by an Offender, that Offender would be locked up, and a disciplinary case written on him.

Action Requested to resolve your Complaint.
Would like to understand why Johnnies are necessary to serve when the Unit isn't locked down nor
is the Unit short of staff.

Offender Signature:

Date: 02-02-18

Grievance Response:

An investigation was conducted into your complaint. Investigation reveals that administration makes daily calls to food service whether to feed hot meals or sack meals. If sack meals are called for that day, a modified hot meal is fed at lunch to all workers that are currently out working. Therefore, all working offenders are fed adequately according to policy. No further action is warranted by this office.

Warden C. Furr

APR 20 2018

Signature Authority:

Date:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant. Refer to grievance # _____.
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

Exhibit 1

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GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE
ONLY

STEP 1 X

STEP 2

Unit:	ML	Investigator ID:	1 2547	Date Initiated:	02/02/18	Date Completed:	04/20/18	Date Due:	03/14/18
Offender Name:	Fain, Roger			TDCJ No:	700474	Grievance Number:	2018081586		
Issue Code: 500	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA Disciplinary Medical	()	Property Religion OPI Investigation	()	Use of Force (UOF) Harassment or Retaliation* PREA	(X)	()	()

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal ActivityNote: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

See attached narrative.

Requested Remedy:

Would like to understand why johnnes are necessary to serve when the nit isn't locked down nor is the unit short of staff.

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

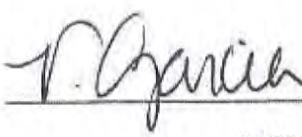
Sent to:
Food Service

Suggested Response to Offender:

An investigation was conducted into your complaint. Investigation reveals that administration makes daily calls to food service whether to feed hot meals or sack meals. If sack meals are called for that day, a modified hot meal is fed at lunch to all workers that are currently out working. Therefore, all working offenders are fed adequately according to policy. No further action is warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: V. GarciaSignature: Title: Investigator IIDate: 04/20/18

This grievance is being processed in an effort to resolve a problem through the established procedures outlined in AD-03.77 and AD-03B2. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of retaliation for the use of these procedures.

Exhibit 1

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Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	2018081586	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

J. Garcia, Investigator III

Name and Title

A handwritten signature in black ink, appearing to read "J. Garcia, Investigator III".

03/14/18

Date

Original – Send to the Offender

Copy – Attach to the Grievance

Exhibit 1

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GRIEVANCE INVESTIGATION WORKSHEET

2nd Notice

Official Statement

Unit: ML Staff Name: Food Service Grievance #: 2018081586 Date: 02/02/18
 Offender Name: Fair, Roger TDCJ#: 700474 Housing Location: 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

<input type="checkbox"/> Participant(s) Statement	<input type="checkbox"/>
<input type="checkbox"/> Witness (es) Statement (signed)	<input type="checkbox"/>
<input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding)	<input type="checkbox"/>
<input type="checkbox"/> Shift Roster	<input checked="" type="checkbox"/>
<input type="checkbox"/> Ingress/Egress Log	<input type="checkbox"/>
<input type="checkbox"/> Property Confiscation Form	<input type="checkbox"/>
Other _____	
Staff or Offender Protection Investigation	
Property Inventory Forms	
Property Logs	

ALLEGATIONS:

See attached narrative.

EMPLOYEE STATEMENT: _____

PRINTED NAME _____

SIGNATURE _____

DATE _____

RANK/TITLE _____

SHIFT/DEPARTMENT _____

SUPERVISOR COMMENTS: Administration make calls daily on hot meals or sackmeals. They said if sackmeals are called for they do feed a hot lunch to all workers that are currently at work. They say they will have a modify menu to provide a hot meal for workers so they can provide hot meals at lunch

PRINTED NAME _____

Fair

SIGNATURE _____

H/P/S

RANK/TITLE _____

SHIFT/DEPARTMENT _____

DATE _____

3-18-18

Exhibit 1

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You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Sgt. Martin was at A-Turnout When? 01-29-18

What was their response? When asked about why we're getting Johnnies, I was told to "Live with it..."

What action was taken? After working a shift, Johnnies were served to the Garment Factory workers

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate
Monday, January 29th 2018, when the P.M. Garment Factory came in they were informed that they would be given Johnnies for the last meal. I am general population, I work an assigned job yet I am treated worse than Agg-Seg offenders who are for the most part disruptive, and disciplinary problems and do not produce any type of benefits for the Unit, yet they receive hot meals unless they are being shock-down.

My understanding of TDCJ-CID Rules is that if you work, you receive a hot meal; if you work you receive a shower; and if you work you receive clean clothes. Maintenance workers receive hot meals, inside yard and other work squads receive hot meals, yet on a regular basis the Garment Factory workers receive Johnnies and are expected to fall out for work in the A.M. or after working P.M. they often receive a Johnnie.

What is also a problem is how a ranking officer addresses legitimate questions from an Offender with responses such as "Live with it..." Ranking officers are where Offenders are to turn when they cannot get a reply from a COVI, to have a ranking officer reply to a question concerning a properly submitted question with an answer that is off the wall shows a total lack of professionalism and training. Given the same response by an Offender, that Offender would be locked up, and a disciplinary case written on him.

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018081586	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice
NOTICE OF EXTENSION
 Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR
 Name/Title

A handwritten signature in blue ink that appears to read "L. Peliture".

06/06/2018
 Date

Original – Send to the Offender
 Copy – Attach to the Grievance

Step 1		Grievance #	Offender Name	TDCJ #	Unit
Step 2	X	2018081586	FAIN, ROGER	700474	ML



Texas Department of Criminal Justice
NOTICE OF EXTENSION
 Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

L. PELITIRE, REGION IV INVESTIGATOR
 Name/Title

A handwritten signature in black ink, appearing to read "L. Pelitire".

06/06/2018
 Date

Original – Send to the Offender
 Copy – Attach to the Grievance

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY										STEP 1		
										STEP 2 X		
Un it	R4	INV ID:	I2197	GR #	2018081586	Date Initiated:	07/13/18	Date Completed:		07/13/18	Due Date	07/16/18
Offender Name:		FAIN, ROGER				TDCJ No:	700474	Housing:	ML			
Issue Code:		EMERGENCY		ADA	()	Property		()	Use of Force (UOF)		()	
500		YES	()	Disciplinary	()	Religion		()	Harassment or Retaliation*		()	
		NO	(X)	Medical	()	OPI Investigation		()	PREA		()	

*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal ActionNote: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.

Summary of Issue: (Include date, time and location):

Offender claims that they were advised that they would receive johnnies as their last meal and that Ad. Seg. offenders who are disruptive and disciplinary problems receive hot meals unless they are being shook down.

Requested Remedy:

Would like to understand why johnnies are necessary to serve when the Unit isn't locked down nor is the Unit short of staff.

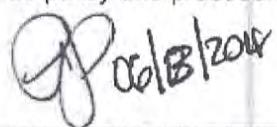
The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Food Service statement

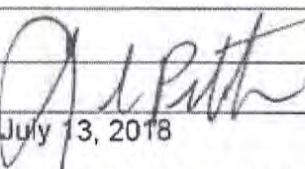
Suggested Response to Offender:

Your complaint has been noted and appropriately addressed in Step One. All meals are prepared in accordance with Texas Government Code 501.003. This policy indicates that inmates housed in facilities operated by TDCJ are fed good and wholesome food, prepared under sanitary conditions, and provided in sufficient quantity and reasonable variety. Policy does not stipulate that hot meals must be served. All sack meals provided are in accordance with TDCJ policy and procedures and this also includes the correct caloric count for every meal served. No further action warranted.



OUTCOME CODE:	D	RESOLUTION CODE:	2.01	(Grievance Office Use Only)
------------------	---	------------------	------	-----------------------------

Investigating official completes the section below:

Printed Name:	L. Pelitire	Signature:	
Title:	AA IV	Date:	July 13, 2018

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.



Texas Department of Criminal Justice

STEP 2**OFFENDER
GRIEVANCE FORM**

Offender Name: Roger Fain TDCJ # 00700474
 Unit: McConnell Housing Assignment: 19 Building Y-Dorm
 Unit where incident occurred: 19 Building Y-Dorm

OFFICE USE ONLY	
Case Number:	<u>Q01B025778</u>
Initial Date:	<u>DEC 20 2017</u>
RR Date:	<u>DEC 28 2017</u>
Date Due:	<u>1/29</u>
Amount Due:	<u>\$15,899</u>
Investigation No.:	
Extension Date:	

You must attach the completed Step 1 grievance form to this form before it can be accepted. You may not appeal for Step 2 if Step 1 was not filed.

Give reason for appeal (Be Specific).

It is obvious that the Warden's response is just a blow-off of the issue presented to him as well as many others. When an issue is brought forth with numerous Offender's stating the same thing, not only from the same Dorm, but from others and the Grievance Investigator finds that the "Investigation Failed To Produce Substantial Evidence To Support Your Allegations..." some thing is seriously flawed with the investigation of said claim, and the investigator who fails to properly investigate the issues brought forth.

It is apparent to me that the investigator's investigation was just to ask the Officer involved in the incident grieved if the matter is true or not??? Name one Officer working for TDCJ-CID who would admit wrong doing in any type of investigation. When asked it is apparent Officer Martinez stated he did nothing wrong, that he was only doing his assigned job...

My Step-I states a number of claims that are all from the same incident, and since this Office only recognizes "One Issue Per Grievance" here is my issue I wish to put forth, the Grievance Procedure On THe McConnell Unit Is A Joke, and that is the gist of my issue.

Offender Signature:

Date: December 16th 2017

Grievance Response:

Signature Authority:

Date:

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted. * *Signature*
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: *U Belville D Potts*

OFFICE USE ONLY		
Initial Submission	CGO Initials: <i>UP</i>	
Date UGO Recd: <i>12-20</i>		
Date CGO Recd: <i>12-28-17</i>		
(check one) <input checked="" type="checkbox"/> Screened	Improperly Submitted	
Comments: <i>* 3 Signature</i>		
Date Returned to Offender: <i>1-23-18</i>		
2nd Submission	CGO Initials: _____	
Date UGO Recd: _____		
Date CGO Recd: _____		
(check one) <input type="checkbox"/> Screened	Improperly Submitted	
Comments: _____		
Date Returned to Offender: _____		
3rd Submission	CGO Initials: _____	
Date UGO Recd: _____		
Date CGO Recd: _____		
(check one) <input type="checkbox"/> Screened	Improperly Submitted	
Comments: _____		
Date Returned to Offender: _____		

Exhibit 1**131**



Texas Department of Criminal Justice

**STEP 1 OFFENDER
GRIEVANCE FORM**

Offender Name: Roger Fair TDCJ # 00700474
 Unit: McConnel Housing Assignment: 19 Y 007
 Unit where incident occurred: McConnel, Dorm 19 Y

OFFICE USE ONLY	
Grievance #:	<u>2018025778</u>
Date Received:	<u>10-18-17</u>
Date Due:	<u>11-27-17</u>
Grievance Code:	<u>815</u>
Investigator ID #:	<u>1550 2475</u>
Extension Date:	<u>1-6</u>
Date Rtrd to Offender:	<u>DEC 15 2017</u>

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANK, When? 10-17-17
 What was their response? RANK WAS NOT CALLED, IN FACT IT WAS DENIED
 What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, C011 BEGAN TO WAKE ALL OFFENDERS ON Y-DORM, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER, (NEW BOOF, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED RESTOR COURT BY WAKING OFFICERS AFTER 11:00PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDER'S ADEQUATE SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE).

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, AFTER OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVING FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT WILL BE RESOLVED BY THIS PROCEDURE OF DOING A GRIEVANCE.

Action Requested to resolve your Complaint.

OFFENDERS WORK EARLY AND SLEEP IS NECESSARY, ROSTER COUNT IS CONDUCTED A 8:00 PM ID'S CAN BE "PERSONALLY" PRESENTED AT THAT TIME

Offender Signature: John Fair (Submitted @ 3:00 AM) Date: 10-17-17

Grievance Response has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

C. Furr

Warden C. Furr

Date: DEC 13 2017

Signature Authority:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2 nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3 rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

All documentation that follows this sheet is restricted and confidential and is not to be released without the authorization of the administrator of offender grievances.

**RESTRICTED
AND
CONFIDENTIAL**

Exhibit 1

134

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY			STEP 1 X	
			STEP 2	
Unit: <u>ML</u>	Investigator ID: <u>I-2475</u>	Date Initiated: <u>10/18/17</u>	Date Completed: <u>12/13/17</u> Date Due: <u>11/27/17</u>	
Offender Name: <u>Fain, Roger</u>		TDCJ No: <u>00700474</u>	Grievance Number: <u>2018025778</u>	
Issue Code: 815	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA Disciplinary <input type="checkbox"/> Medical <input type="checkbox"/>	Property <input type="checkbox"/> Religion <input type="checkbox"/> OPI Investigation <input type="checkbox"/>	Use of Force (UOF) <input type="checkbox"/> Harassment or Retaliation* <input type="checkbox"/> PREA <input type="checkbox"/>
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activities</small> <small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>				
Summary of Issue: (Include date, time and location): See Attached Narrative				
Requested Remedy:				

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Sent to: Ofc. V. Martinez 2A/GP

SM - DI.03 Count Procedures**Suggested Response to Offender:**

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

OUTCOME CODE: D RESOLUTION CODE: 2.01

Investigating official completes the section below:

Printed Name: M. LugoSignature: M. LugoTitle: Investigator IIIDate: 12/13/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1**136**

GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: ML Staff Ofc. V. Martinez 2A/GP Grievance #: 2018025778 Date: 10/18/17
Offender Name: Fain, Roger TDCJ#: 00700474 **Housing Location:** 19Y-007

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

<input type="checkbox"/> Participant(s) Statement	<input type="checkbox"/> Witness (es) Statement (signed)	<input type="checkbox"/> Other
<input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding)	<input type="checkbox"/> Shift Roster	<input type="checkbox"/> Staff or Offender Protection Investigation
<input type="checkbox"/> Ingress/Egress Log	<input type="checkbox"/> Property Confiscation Form	<input type="checkbox"/> Property Inventory Forms
<input type="checkbox"/> Property Confiscation Form		<input type="checkbox"/> Property Logs

ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: During a proper roster count, I order offenders to come to the end of the bunk to present their id for a proper roster count. If they fail to comply I do write a disciplinary case for disobeying orders. I do not take pleasure in waking up offenders but have to because it's how it's supposed to be done to properly identify offenders.

Martinez, V
PRINTED NAME

V
SIGNATURE

10/31/17
DATE

CO III
RANK/TITLE

2A GP /security
SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by waking the offenders up to verify their identity.

K. Embard
PRINTED NAME

KM
SIGNATURE
ZAGP
SHIFT/DEPARTMENT

10-31-17
DATE

RANK/TITLE

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANK

When? 10-17-17

What was their response? RANK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONIC

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COMM BEGAN TO WAKE ALL OFFENDERS ON Y-BLOCK, AND STATED THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOOF, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED ROSTER COUNT BY WAKING OFFICERS AFTER 11:00PM VIOLATES PD-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #23 (IN THIS CASE DENYING OFFENDER'S ADEQUATE SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE),

OFFICER MARTINEZ'S BEHAVIOR IS CRUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Appendix F

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE.

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SEVERAL OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING MAIL AFTER LIGHTS OUT. **Exhibit 1** **140** THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GIVEN FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT

Step 1	<input checked="" type="checkbox"/>	Grievance #	Offender Name	TDCJ #	Unit
Step 2	<input type="checkbox"/>	7018025738	Gain, Roger	700474	ML



Texas Department of Criminal Justice

NOTICE OF EXTENSION

Offender Grievance Office

In accordance with the procedures outlined in BP-03.77, "Offender Grievances," and AD-03.82, "Management of Offender Grievances," you are hereby notified that additional time is necessary to complete the investigation of your:

Step 1 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your grievance.
- An additional 45 days is needed for appropriate response to your medical Step 1 grievance.

Step 2 Grievance: (check the applicable box)

- An additional 30 days is needed for appropriate response to your disciplinary appeal.
- An additional 40 days is needed for appropriate response to your Step 2 grievance.
- An additional 45 days is needed for appropriate response to your medical Step 2 grievance.

K. Fuentes, Clerk II

11/14/17

Name and Title

Date

Original – Send to the Offender

Copy – Attach to the Grievance



RESUEMISSION

Texas Department of Criminal Justice

STEP 2**OFFENDER
GRIEVANCE FORM**

Offender Name: Roger Kain TDCJ # 700474
 Unit: ML Housing Assignment: 19 Building - Ydmn
 Unit where incident occurred: ML

OFFICE USE ONLY

Grievance #: 2018025779
 UGI Reed Date: 1-29-18
 HQ Reed Date: 2-5-18
 Date Due: 3/1
 Grievance Code: 815
 Investigator ID #: 1722
 Extension Date: _____

JAN 29 2018



Texas Department of Criminal Justice

STEP 2**OFFENDER
GRIEVANCE FORM**Offender Name: Roger Fain TDCJ # 00700474Unit: McConnell Housing Assignment: 19 Building Y-DormUnit where incident occurred: 19 Building Y-Dorm - 007

OFFICE USE ONLY	
Grievance No.	<u>2019025778</u>
Received Date	<u>DEC 28 2017</u>
DOB/Rec Date	<u>DEC 28 2017</u>
Date Due	<u>1/29</u>
Previous Case	<u>815,899</u>
Prison/Unit	
Transferred Date	

You must attach the completed Step 1 Grievance when filing your appeal to the Board of Pardons and Paroles. Your appeal will not be accepted if you do not attach the Step 1 Grievance.

Give reason for appeal (Be Specific). *I am dissatisfied with the response to Step 1.*

It is obvious that the Warden's response is just a blow-off of the issue presented to him as well as many others. When an issue is brought forth with numerous Offender's stating the same thing, not only from the same Dorm, but from others and the Grievance Investigator finds that the "Investigation Failed To Produce Substantial Evidence To Support Your Allegations..." some thing is seriously flawed with the investigation of said claim, and the investigator who fails to properly investigate the issues brought forth.

It is apparent to me that the investigator's investigation was just to ask the Officer involved in the incident grieved if the matter is true or not??? Name one Officer working for TDCJ-CID who would admit wrong doing in any type of investigation. When asked it is apparent Officer Martinez stated he did nothing wrong, that he was only doing his assigned job...

My Step-I states a number of claims that are all from the same incident, and since this Office only recognizes "One Issue Per Grievance" here is my issue I wish to put forth, the Grievance Procedure On The McConnell Unit Is A Joke, and that is the gist of my issue.

Offender Signature: Lynn Fair

Date: December 16th 2017

Grievance Response:

Your complaint has been noted and was appropriately addressed at step one. A bed book account is performed during nighttime hours when offenders are confined to their housing areas. It is a physical count of offenders that requires a verbal response and positive identification of the offender using the offender's identification card. There is no evidence to support your allegations of harassment. No further action warranted.

P. Chapa, Assistant Regional Director

Signature Authority: JHDate: 03/12/2018

Returned because: *Resubmit this form when corrections are made.

- 1. Grievable time period has expired.
- 2. Illegible/Incomprehensible.*
- 3. Originals not submitted. * *Dig nature*
- 4. Inappropriate/Excessive attachments.*
- 5. Malicious use of vulgar, indecent, or physically threatening language.
- 6. Inappropriate.*

CGO Staff Signature: L. Polite

OFFICE USE ONLY	
Initial Submission	CGO Initials: <u>UP</u>
Date U/G Recd: <u>12/20</u>	
Date CGO Recd: <u>12/20/17</u>	
(check one) <input checked="" type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: <u>#3 Dig nature</u>	
Date Returned to Offender: <u>1-23-18</u>	
2 nd Submission	CGO Initials: _____
Date U/G Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	
3 rd Submission	CGO Initials: _____
Date U/G Recd: _____	
Date CGO Recd: _____	
(check one) <input type="checkbox"/> Screened	<input type="checkbox"/> Improperly Submitted
Comments: _____	
Date Returned to Offender: _____	

Exhibit 1



Texas Department of Criminal Justice

STEP 1
OFFENDER
GRIEVANCE FORM
Offender Name: Roger Fair TDCJ # 00700474Unit: McConnoe Housing Assignment: 19 Y 007Unit where incident occurred: McConnoe, Dorm 19 Y**OFFICE USE ONLY**Grievance #: 2018025778Date Received: 10.18.17Date Due: 11.27.17Grievance Code: 815Investigator ID #: 1800 2475Extension Date: 1-6Date Retd to Offender: DEC 15 2017

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? ASKED FOR RANK, When? 10-17-17

What was their response? RANK WAS NOT CALLED, IN FACT IT WAS DENIED

What action was taken? NONE

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

AT APPROXIMATELY 11:25 PM, 10-17-17, OFFICER MARTINEZ, COMMENCED TO WAKE ALL OFFENDERS ON Y-DORM, AND STATES THAT THEY HAD TO STAND AT THE END OF THEIR CUBICLES, AND HAND HIM THEIR ID CARDS, FAILING TO DO SO, OFFICER MARTINEZ MADE AN ISSUE OUT OF IT BY HAVING ANOTHER OFFICER (NEW BOY, NAME UNKNOWN), INDICATE THE BUNK NUMBER ON ANOTHER PIECE OF PAPER.

THE CAMERAS WILL SHOW THAT ALL OFFENDERS COMPLIED WITH WHAT APPEARS TO BE AN UNLAWFUL ORDER, BUT FAILING TO INSTANTLY COMPLY WITH OFFICER MARTINEZ'S ORDER GOT YOUR BUNK NUMBER WRITTEN DOWN, WITH THE THREAT OF A DISCIPLINARY CASE.

OFFICER MARTINEZ IN HIS UNAUTHORIZED ROSTER COUNT BY WAKING OFFICERS AFTER 11:00PM VIOLATES PA-22, RULES #7, #20, (OFFICER MARTINEZ IS THE ONLY OFFICER WHO WAKES OFFENDERS TO PRESENT THEIR ID'S), #33 (IN THIS CASE DENYING OFFENDER'S ADEQUATE SLEEP), #37 (THIS BY EXHIBITING DISRUPTIVE BEHAVIOR IN THE WORKPLACE).

OFFICER MARTINEZ'S BEHAVIOR IS CAUSING A HOSTILE WORK ENVIRONMENT FOR OTHER OFFICERS BY CAUSING OFFENDERS TO BE WAKENED BASED ON A RULE, POLICY, PROCEDURE THAT ONLY OFFICER MARTINEZ KNOWS, APPLIES, OR ENFORCES, OFFICERS AREN'T

PERMITTED TO IMPLEMENT A POLICY THAT DOESN'T EXIST. "THE OFFICER HAS THE OPPORTUNITY TO HAVE OFFENDERS STAND TO PRESENT ID'S AT THE 8:00 PM ROSTER COUNT, WHEN OFFENDERS ARE STILL AWAKE."

OFFICER MARTINEZ APPEARS TO TAKE PLEASURE IN WAKING UP SLEEPING OFFENDERS NOT ONLY FOR COUNT/ID PRESENTATION BUT HIS POLICY OF PASSING OUT MAIL AFTER LIGHTS OUT. THIS ISN'T THE FIRST TIME OFFICER MARTINEZ HAS BEEN GRIEVING FOR THIS SAME PROCEDURE, AND IT IS DOUBTFUL IT WILL BE RESOLVED BY THIS PROCEDURE OF DOING A GRIEVANCE.

Action Requested to resolve your Complaint:

OFFENDERS WORK EARLY AND SLEEP IS NECESSARY, ROSTER COUNT IS CONDUCTED A 8:00 PM ID'S CAN BE "PERSONALLY" PRESENTED AT THAT TIME

Offender Signature: Fajar Fajr (SUBMITTED @ 3:00 AM) Date: 10-17-17

Grievance Response: Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your

allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

C. Furr or Warden C. Furr

Date: DEC 13 2017

Signature Authority:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: *Resubmit this form when the corrections are made.

- 1. Grievable time period has expired.
- 2. Submission in excess of 1 every 7 days. *
- 3. Originals not submitted. *
- 4. Inappropriate/Excessive attachments. *
- 5. No documented attempt at informal resolution. *
- 6. No requested relief is stated. *
- 7. Malicious use of vulgar, indecent, or physically threatening language. *
- 8. The issue presented is not grievable.
- 9. Redundant, Refer to grievance # _____
- 10. Illegible/Incomprehensible. *
- 11. Inappropriate. *

UGI Printed Name/Signature: _____

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: _____

Exhibit 1

OFFICE USE ONLY	
Initial Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
2nd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____
3rd Submission	UGI Initials: _____
Grievance #:	_____
Screening Criteria Used:	_____
Date Recd from Offender:	_____
Date Returned to Offender:	_____

**TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE**

OFFENDER GRIEVANCE PROGRAM

NOTICE

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**RESTRICTED
AND
CONFIDENTIAL**

Exhibit 1

149

GRIEVANCE INVESTIGATION WORKSHEET

Restricted & Confidential

GRIEVANCE OFFICE USE ONLY				STEP 1 X
				STEP 2
Unit: <u>ML</u>	Investigator ID: <u>I-2475</u>	Date Initiated: <u>10/18/17</u>	Date Completed: <u>12/13/17</u>	Date Due: <u>11/27/17</u>
Offender Name: <u>Fain, Roger</u>		TDCJ No: <u>00700474</u>	Grievance Number: <u>2018025778</u>	
Issue Code: 815	EMERGENCY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	ADA Disciplinary Medical <input type="checkbox"/>	() Property () Religion () OPI Investigation <input type="checkbox"/>	() Use of Force (UOF) () Harassment or Retaliation* <input type="checkbox"/> () PREA <input type="checkbox"/>
<small>*Harassment or Retaliation of Use of the Grievance Procedure, Access to Courts, or other Legal Activities</small> <small>Note: Offenders are not allowed to review the grievance investigation worksheet at any time. For claims of sexual abuse, sexual assault, criminal acts by staff, Excessive or Unreported UOF, the investigation must be conducted by the Office of Inspector General (OIG) and the OIG Fact Sheet completed.</small>				
Summary of Issue: (Include date, time and location): See Attached Narrative				
Requested Remedy:				

The following is to be completed and signed by the Investigating Official. Attach statements/supporting documentation, if applicable.

Summary of Fact Finding Activity:

Sent to: Ofc. V. Martinez 2A/GP

SM - 01.03 Count Procedures**Suggested Response to Offender:**

Your claim has been reviewed. Investigation failed to produce substantiated evidence to support your allegations against Officer Martinez. Count procedures are a very important part of security measures, therefore, it is very important that all offenders are accounted for. Officer Martinez is performing his job duties accordingly. No further action warranted by this office.

OUTCOME CODE: D **RESOLUTION CODE:** 2.01

Investigating official completes the section below:

Printed Name: M. Lugo Signature: M. Lugo
 Title: Investigator III Date: 12/13/17

This grievance is being processed in an effort to resolve a problem through the established procedures identified in BP-03.77 and AD-0382. It is expressly prohibited to subject the grievant, other offenders, or staff to any form of reprisal for the use of these procedures.

Exhibit 1

TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE

OFFENDER GRIEVANCE PROGRAM

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RESTRICTED
AND
CONFIDENTIAL

GRIEVANCE INVESTIGATION WORKSHEET

Official Statement

Unit: <u>ML</u>	Staff Name: <u>Ofc. V. Martinez 2A/GP</u>	Grievance #: <u>2018025778</u>	Date: <u>10/18/17</u>
Offender Name: <u>Fain, Roger</u>	TDCJ#: <u>00700474</u>	Housing Location: <u>19Y-007</u>	

In accordance with BP 03.77, you are required to participate in this investigation as noted. Address each allegation thoroughly. Do not respond with indefinite answers such as "I don't know" or "I have no knowledge of". If you have no knowledge, explain the reason why. (e.g., I was on vacation; I was not assigned there, etc.) Your answers are to be factual, professional, and complete. Do not include opinions or unrelated comments. Remember, the Executive Director, Office of the Inspector General (OIG), Attorney General's Office and State and Federal Court Officials may review your response. All grievances are confidential and may not be discussed between you and the offender or with other individuals. You are expected to return this investigation within 10 working days of receipt. Additional time may be requested by contacting the grievance investigator. Sign and date the form in the designated locations when completed and return it to the Unit Grievance Office. If you were provided a narrative copy of the grievance, it must also be returned to the Unit Grievance Office. The grievance may not be duplicated or shared with the accused staff member.

Please Provide the Following Documents

<input type="checkbox"/> Participant(s) Statement	<input type="checkbox"/> Witness (es) Statement (signed)
<input type="checkbox"/> Activity Logs (Recreation, Shower, Feeding)	<input type="checkbox"/> Other _____
<input type="checkbox"/> Shift Roster	<input type="checkbox"/> Staff or Offender Protection Investigation
<input type="checkbox"/> Ingress/Egress Log	<input type="checkbox"/> Property Inventory Forms
<input type="checkbox"/> Property Confiscation Form	<input type="checkbox"/> Property Logs

ALLEGATIONS:

Please see attached and address all allegations.

EMPLOYEE STATEMENT: During a proper roster count, I order offenders to come to the end of the bunk to present their id for a proper roster count. If they fail to comply I do write a disciplinary case for disobeying orders. I do not take pleasure in waking up offenders but have to because it's how it's supposed to be done to properly identify offenders.

Martinez, V
PRINTED NAME

V-M
SIGNATURE

10/31/17
DATE

CO II
RANK/TITLE

2A/GP /security
SHIFT/DEPARTMENT

SUPERVISOR COMMENTS: Officer Martinez did conduct a proper roster count by waking the offenders up to verify their identity.

K. Zumbado
PRINTED NAME

KZY
SIGNATURE

RANK/TITLE

7A/GP
SHIFT/DEPARTMENT

10/31/17
DATE